

With regard to the appellee's prayer for relief that the Court appoint a trustee to convey the appellant's one-half interest to appellee if appellant's interest were found to be less than what appellee expended on behalf of the property, the Court stated:

"If the lower Court is satisfied from the testimony to be offered that the amount found to be due the appellee by the appellant is more than his interest in the property is worth, it can decree a sale of that interest, unless the lien is paid within such reasonable time as may be prescribed by the decree, for it would not be just to the appellee to unnecessarily sell her interest, but if it be shown that his half interest is worth more or may bring more than the amount ascertained to be due by him to the appellee, if the whole property is sold, then the decree should, after declaring the lien for the entire amount, authorize the sale of the whole property, the proceeds to be first applied to the payment of that lien, after expenses incident to the sale, taxes and costs are paid. The prayer for general relief would authorize such a decree. Of course, if the amount ascertained to be due, for which a lien is declared, is paid by the appellant as prescribed in the decree, a sale should be decreed for the purposes of partition, as we understand the answer of the appellee to the original bill to admit that the property cannot be divided."

Maas vs. Lucas, 29 Md. App. 521 (1975) is a more recent case citing Hogan vs. McMahon, supra, for the same principles as set forth above. In Maas the appellant and his wife at the time of the dissolution of their marriage in 1943 conveyed their property by straw deeds to a straw party who reconveyed to the appellant and his children as tenants in common. Both deeds contained covenants that the grantors had done no act to encumber the property. There was, however, at this time a mortgage on the property executed by the appellant and his wife. Less than a year later, the appellant discharged the mortgage by full payment of the \$4,770.00 balance due.

In appellant's bill of complaint for sale of the property (mentioned above) in lieu of partition against appellant's children, a dispute arose as to the manner of the distribution of the proceeds of sale. One bone of contention was the appellant's pay